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HOUSE BILL 707

**47TH LEGISLATURE - STATE OF NEW MEXICO - FIRST SESSION, 2005**

INTRODUCED BY

Avon W. Wilson

AN ACT

RELATING TO CRIMINAL LAW; ENACTING THE PROTECTION OF MAILS ACT;  
CREATING NEW CRIMINAL OFFENSES; PRESCRIBING CRIMINAL PENALTIES.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF NEW MEXICO:

Section 1. SHORT TITLE.--This act may be cited as the  
"Protection of Mails Act".

Section 2. DEFINITIONS.--As used in the Protection of  
Mails Act:

A. "authorized depository" means a mailbox, post  
office box or rural box used by postal customers to deposit  
outgoing mail or used by the postal service to deliver incoming  
mail;

B. "letter box" means any mail receptacle intended  
or used for the receipt or delivery of mail on a mail route;

C. "mail" means any letter, card, parcel or other

underscored material = new  
[bracketed material] = delete

1 material that:

2 (1) is sent or delivered by means of the  
3 postal service;

4 (2) has postage affixed by the postal customer  
5 or postal service or has been accepted for delivery by the  
6 postal service; and

7 (3) is placed in any authorized depository or  
8 mail receptacle or given to any postal service employee for  
9 delivery;

10 D. "mail receptacle" means any place used by the  
11 postal service or postal customers to place outgoing mail or  
12 receive incoming mail;

13 E. "postage" means a postal service stamp, permit  
14 imprint, meter strip or other authorized indication of  
15 prepayment for service provided or authorized by the postal  
16 service for collection and delivery of mail; and

17 F. "postal service" means the United States postal  
18 service.

19 Section 3. OBSTRUCTION OF MAILS--PENALTY.--

20 A. Obstruction of mails consists of intentionally  
21 obstructing or delaying:

22 (1) the passage of the mail; or

23 (2) any carrier or conveyance carrying the  
24 mail.

25 B. Whoever commits obstruction of mails is guilty

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1 of a misdemeanor and shall be sentenced pursuant to the  
2 provisions of Section 31-19-1 NMSA 1978.

3 Section 4. DESTRUCTION OF A LETTER BOX OR THE MAIL--  
4 PENALTY.--

5 A. Destruction of a letter box or the mail consists  
6 of intentionally:

7 (1) tearing down, taking, damaging or  
8 destroying a letter box;

9 (2) breaking open a letter box; or

10 (3) injuring, destroying or defacing mail  
11 deposited in a letter box.

12 B. Whoever commits destruction of a letter box or  
13 the mail is guilty of a misdemeanor and shall be sentenced  
14 pursuant to the provisions of Section 31-19-1 NMSA 1978.

15 Section 5. MAIL THEFT OR RECEIPT OF STOLEN MAIL--  
16 PENALTY.--

17 A. Mail theft or receipt of stolen mail consists of  
18 intentionally:

19 (1) taking or obtaining, by fraud or  
20 deception, mail from a post office, postal station, letter box,  
21 mail receptacle, authorized depository or mail carrier;

22 (2) taking, by fraud or deception, from mail  
23 any article contained in the mail;

24 (3) secreting, embezzling or destroying mail  
25 or any article contained in the mail;

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1 (4) taking or obtaining, by fraud or  
2 deception, mail or any article contained in the mail that has  
3 been delivered to or left for collection on, or adjacent to, a  
4 mail receptacle or authorized depository; or

5 (5) buying, receiving, concealing or  
6 possessing mail or any article contained in the mail knowing  
7 that the mail has been unlawfully taken or obtained.

8 B. Whoever commits mail theft or receipt of stolen  
9 mail when the value of the mail or article contained in the  
10 mail is one hundred dollars (\$100) or less is guilty of a petty  
11 misdemeanor and shall be sentenced pursuant to the provisions  
12 of Section 31-19-1 NMSA 1978.

13 C. Whoever commits mail theft or receipt of stolen  
14 mail when the value of the mail or article contained in the  
15 mail is over one hundred dollars (\$100) but not more than one  
16 thousand dollars (\$1,000) is guilty of a misdemeanor and shall  
17 be sentenced pursuant to the provisions of Section 31-19-1 NMSA  
18 1978.

19 D. Whoever commits mail theft or receipt of stolen  
20 mail when the value of the mail or article contained in the  
21 mail is over one thousand dollars (\$1,000) but not more than  
22 two thousand five hundred dollars (\$2,500) is guilty of a  
23 fourth degree felony and shall be sentenced pursuant to the  
24 provisions of Section 31-18-15 NMSA 1978.

25 E. Whoever commits mail theft or receipt of stolen  
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1 mail when the value of the mail or article contained in the  
2 mail is over two thousand five hundred dollars (\$2,500) but not  
3 more than twenty thousand dollars (\$20,000) is guilty of a  
4 third degree felony and shall be sentenced pursuant to the  
5 provisions of Section 31-18-15 NMSA 1978.

6 F. Whoever commits mail theft or receipt of stolen  
7 mail when the value of the mail or article contained in the  
8 mail is over twenty thousand dollars (\$20,000) is guilty of a  
9 second degree felony and shall be sentenced pursuant to the  
10 provisions of Section 31-18-15 NMSA 1978.

11 Section 6. DEFENSES.--In any prosecution pursuant to the  
12 Protection of Mails Act, it is an affirmative defense that:

13 A. the defendant was unaware that the property was  
14 that of another person;

15 B. the defendant reasonably believed that he was  
16 entitled to the property involved or had a right to acquire or  
17 dispose of it as he did; or

18 C. the property involved was that of the  
19 defendant's spouse, unless the parties were not living together  
20 as husband and wife and were living in separate abodes at the  
21 time of the alleged offense.

22 Section 7. EFFECTIVE DATE.--The effective date of the  
23 provisions of this act is July 1, 2005.